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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

Federal Communications Commission
 Office of Secretary

In the Matter of
 Assessment and Collection
 Of Regulatory Fees for
 Fiscal Year 2003

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MD Docket No. 03-83

Comments of the Industrial Telecommunications Association, Inc.

The Industrial Telecommunications Association, Inc. (ITA) hereby respectfully submits its comments in response to the Commission's *Notice of Proposed Rulemaking* (NPRM) in the above-referenced matter.¹ The NPRM seeks comment on the administrative processes associated with regulatory fees. ITA, as discussed below, urges the Commission to continue the process of informational mailings for regulatory fees, and asks the Commission to clarify the classifications of user groups and their associated regulatory fees.

I. Statement of Interest

ITA is a Commission-certified frequency advisory committee coordinating in excess of 13,000 applications per year on behalf of applicants seeking Commission authority to operate on a wide-variety of frequency assignments allocated between 30-900 MHz.

ITA enjoys the support of a membership including more than 2,100 licensed two-way land mobile radio communications users, private mobile radio service (PMRS) oriented radio dealer organizations, and the following trade associations:

¹ See, In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2003, *Notice of Proposed Rulemaking*, MD Docket No. 03-83 (rel. March 26, 2003) (NPRM).

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Alliance of Motion Picture and Television Producers
Aeronautical Radio, Inc.
National Propane Gas Association

In addition, ITA is affiliated with the following independent market councils: the Council of Independent Communications Suppliers (CICS), the Taxicab & Livery Communications Council (TLCC), the Telephone Maintenance Frequency Advisory Committee (TELFAC), and USMSS, Inc.

ITA's extensive involvement with the private land mobile industry expands into many services including: application preparation for public safety and first responders; coordination and engineering services for industrial/business users, commercial licensees under Part 90 of the Commission's rules, and PMRS radio dealers; protection of petroleum service users through a contractual agreement with the American Petroleum Institute; an industry liaison for equipment manufacturers and end users, as well as band managers and end users; the Commission's first line of post-licensing, interference resolution; and various other services.

II. Discussion

The Commission, through the above-referenced NPRM, has begun a multi-year review of the regulatory fee assessment and collection processes. To this end, it seeks comment on the effectiveness and potential improvements to the following:

- (1) regulatory fee notifications;
- (2) dissemination of regulatory fee bills;
- (3) regulatory fee payment procedures; and
- (4) regulatory fee timing.²

Many of ITA's members (PMRS licensees) pay 10 years of regulatory fees upfront for a 10-year license at the time of licensing. Our Commercial Mobile Radio Service (CMRS)

² NPRM at ¶ 16.

members, however, pay regulatory fees as CMRS Messaging Services on a yearly basis, in addition to the 10-year fees attached to FCC filing fees at the time of licensing.³ These CMRS providers rely heavily upon the Commission and ITA for information regarding financial compliance with the Commission's rules. They continuously receive information about universal service fees, telecommunications relay fees, regulatory fees, and if they are modifying their license, FCC licensing fees from a number of different industry groups and companies seeking to provide them with government liaison services. It is not easy for a small commercial operator who is providing private, internal services to local industries to keep up with the many different funds for which the Commission has directed their contributions. In many cases, unfortunately, the administrative cost of compliance outweighs the actual fee itself. In the case of universal service fees, the Commission wisely determined that these types of entities would be relieved of financial burdens with a *de minimis* exemption.⁴ Likewise, compliance costs associated with annual regulatory fees are typically higher than the regulatory fee itself.

Nevertheless, information dissemination plays a pivotal role in the payment of regulatory fees by these small commercial operators. Without assessment information, it may be difficult for licensees to completely understand the basics of the regulatory fee process -- where to submit

³ ITA does have one member that pays regulatory fees under the CMRS Mobile Service because it is authorized for operation on more than 10 MHz of bandwidth. See Assessment and Collection of Regulatory Fees for Fiscal Year 2002, *Report and Order*, MD Docket No. 02-64 (rel. July 5, 2002) at ¶ 15 of Appendix F, p. 65, stating that CMRS Messaging Services include "small SMR systems authorized for use of less than 10 MHz of bandwidth." (2002 NPRM).

⁴ See Federal State Joint Board on Universal Service; 1998 Biennial Regulatory Review-Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990; Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size; Number resource Optimization; Telephone Number Portability, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, NSD File No. L-00-72, *Notice of Proposed Rulemaking* (rel. May 8, 2001) at ¶ 31 and n.73, stating that wireless carriers with an expected universal service contribution less than \$10,000 are exempt from contributing to universal service mechanisms.

payment, when to submit payment and even why it is necessary for them to submit payment. A direct mailing from the Commission carries much weight in a world of continuous spamming and junk mail. Without adequate notification, small providers may unintentionally miss the regulatory deadline, which unfortunately decreases the amount of collected regulatory fees for the fiscal year. ITA, therefore, urges the Commission to retain the regulatory fee assessment and notification process that is currently in place.

ITA is also concerned with the Commission's Notice, as it does not classify the groupings of users. In 2000, small SMR operators were unintentionally categorized as CMRS Mobile Services in the 2000 Regulatory Fees NPRM;⁵ an inadvertent error that was corrected in the Report and Order later that year.⁶ With these comments, ITA urges the Commission to retain the same classifications of fee groups that have been used in 2001 and 2002, with small SMR operators in the CMRS Messaging Service fee category.⁷

III. Conclusion

ITA believes the Commission's regulatory fee assessment and payment notifications are necessary for small operators. An FCC mailing that outlines the regulatory fee process will allow the Commission to continue collecting regulatory fees in a timely manner. With this in mind, we urge the Commission to continue mailing regulatory fee notices and assessments. We also ask the Commission to remain cognizant of the potential for uninformed licensees to fail to

⁵ See Assessment and Collection of Regulatory Fees for Fiscal Year 2000, *Notice of Proposed Rule Making*, MD Docket No. 00-58 (rel. April 3, 2000) at ¶ 14 of the Attachment, stating that all traditional SMR operators should be included in the CMRS Mobile Services fee category.

⁶ See Assessment and Collection of Regulatory Fees for Fiscal Year 2000, *Report and Order*, MD Docket No. 00-58 (rel. July 10, 2000) at ¶ 15 of Appendix F, p. 69.

⁷ 2002 NPRM at Appendix F.

pay as a result of lack of education on regulatory fee payment. Furthermore, we urge the Commission to retain its category designations from the recent past.

Respectfully submitted,

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Date: April 25, 2003

CERTIFICATE OF SERVICE

I, Jeremy Denton, do hereby certify that on the 25th day of April 2003, I forwarded to the parties listed below a copy of the foregoing Comments of the Industrial Telecommunications Association, Inc. via hand delivery:

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